

Testimony of Christopher Kearney
Deputy Assistant Secretary for Policy and International Affairs
Department of the Interior
At the Oversight Hearing Before the
Senate Indian Affairs Committee
on
The Protection of Native American Sacred Places
July 17, 2002

Mr. Chairman and Members of the Committee, it is my pleasure to be here today to discuss the Department's role in protecting Native American Sacred Places. My name is Chris Kearney and I am the Deputy Assistant Secretary for Policy and International Affairs in the Office of the Assistant Secretary for Policy, Management and Budget. I am accompanied today by Stephen Parsons, Hydrologist, Office of Surface Mining; Patricia L. Parker, Chief, American Indian Liaison Office, and John Robbins, Assistant Director, Cultural Resources, Stewardship and Partnerships, National Park Service; and Marilyn Nickels, Group Manager, Cultural and Fossil Resources, Bureau of Land Management.

Background

Executive Order No. 13007, 61 Fed. Reg. 26,771, Indian sacred Sites, was issued in 1996. The Order requires federal land management agencies to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of such sacred sites. Where practicable and appropriate, implement procedures to ensure reasonable

notice is provided of proposed actions or policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of these sites. The Order also requires federal agencies to consult with tribes on a government-to-government basis whenever plans, activities, decisions, or proposed actions affect the integrity of, or access to, the sites. Each relevant Cabinet agency was required to send an implementation report to the President within one year of the Order's issuance.

Coordination of the Department of the Interior's implementation was assigned to the Office of American Indian Trust (OAIT). The OAIT is responsible for ensuring department-wide compliance and overall consistency of the Sacred Sites Executive Order. To assist that Office to communicate with the various bureaus in the Department, an interagency Working Group on the Implementation of the Sacred Sites Executive Order was created, comprising representatives of each departmental bureau, appropriate departmental offices and the Office of the Solicitor.

The Working Group has actively sought input from Tribal representatives on all aspects of the Department's implementation process. The Department asked for Tribal input on the structure, location and content for consultations and hosted three formal discussion meetings between tribal and federal representatives focusing on implementation from both a procedural and substantive perspective. The meetings were held in Portland, Oregon; Denver, Colorado; and Reston, Virginia in March and early April of 1997. Topics at the meetings included: how to conduct meaningful consultation; how and when consultation processes are triggered; how to protect the physical integrity of sacred sites; how to

protect the confidentiality of culturally sensitive information; how to accommodate access and use; and dispute resolution.

Current Status

In October, 2001, the Department attended the Sacred Lands Forum in Boulder, Colorado. Through considerable internal review and the dialogue with interested participants at the forum, it became clear that we needed to move forward on establishing policies and procedures for protecting sacred lands. At the “Overcoming the Challenges” symposium held on March 20, 2002, which was held as part of the DC Sacred Lands Forum, we announced our intent to reconvene the Department’s Sacred Sites Working Group.

In June, 2002, each of the Department of the Interior offices and bureaus involved with sacred sites was notified of the plans to reconvene the Working Group and they were asked to assign a representative to the Working Group. Our objective is to renew the momentum within the bureaus for establishing the necessary procedures to carry out our obligations understood in the policy we created and to ensure that we fully take into account Tribal concerns. It is also our intent, working with the Tribes, to finalize and then to publish these policies and procedures and provide them to Tribes and other interested parties, and then to ensure that implementation occurs in a timely manner. The Office of American Indian Trust is responsible for coordination, logistics and staff assistance within the Department.

The first Working Group meeting occurred on July 2, 2002, in the office of the Assistant Secretary for Indian Affairs. We are in the process of identifying the current status of sacred site management across the bureaus. That will be followed at future meetings with developing management changes and tools to ensure full compliance with the Executive Order. In addition, and as a result of the DC Sacred Lands Forum, on August 14th the Department of the Interior and the Advisory Counsel on Historic Preservation are sponsoring an interagency meeting on sacred lands and cultural resources, under the auspices of the Interagency Working Group on Environmental Justice. These meetings are meant to help bring awareness and enhance coordination of sacred site issues, not just within the Department of the Interior, but government-wide.

This concludes my statement. I would be pleased to answer any questions the Committee might have.